

109TH CONGRESS  
1ST SESSION

# S. 1995

To amend the Federal Water Pollution Control Act to enhance the security  
of wastewater treatment works.

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## IN THE SENATE OF THE UNITED STATES

NOVEMBER 10, 2005

Mr. JEFFORDS (for himself, Mr. LAUTENBERG, Mrs. BOXER, and Mr. OBAMA)  
introduced the following bill; which was read twice and referred to the  
Committee on Environment and Public Works

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## A BILL

To amend the Federal Water Pollution Control Act to  
enhance the security of wastewater treatment works.

1       *Be it enacted by the Senate and House of Representa-*  
2       *tives of the United States of America in Congress assembled,*

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Wastewater Treatment  
5       Works Security Act of 2005”.

6       **SEC. 2. WASTEWATER TREATMENT WORKS SECURITY.**

7       Title II of the Federal Water Pollution Control Act  
8       (33 U.S.C. 1281 et seq.) is amended by adding at the end  
9       the following:

1 **“SEC. 222. WASTEWATER TREATMENT WORKS SECURITY.**

2 “(a) DEFINITIONS.—In this section:

3 “(1) ALTERNATIVE APPROACH.—

4 “(A) IN GENERAL.—The term ‘alternative  
5 approach’ means a method of preventing or re-  
6 ducing—

7 “(i) the threat of a harmful inten-  
8 tional act; or

9 “(ii) the consequences of a harmful  
10 intentional act.

11 “(B) INCLUSIONS.—The term ‘alternative  
12 approach’ includes—

13 “(i) an approach at a treatment works  
14 that—

15 “(I) uses smaller quantities, or  
16 less hazardous forms, of substances of  
17 concern;

18 “(II) replaces a substance of con-  
19 cern with a less hazardous substance;  
20 or

21 “(III) uses a process that is less  
22 hazardous; and

23 “(ii) with respect to a treatment  
24 works that uses chlorine for disinfection,  
25 an approach that considers the use of so-  
26 dium hypochlorite, ozone, ultraviolet radi-

1                   ation, and other appropriate treatment  
2                   chemicals that are less hazardous than  
3                   chlorine.

4                   “(2) CONSIDERATION.—The term ‘consider-  
5                   ation’, with respect to the consideration of an alter-  
6                   native approach, includes consideration of—

7                   “(A) the benefits and risks of the alter-  
8                   native approach;

9                   “(B) the potential for the alternative ap-  
10                  proach to prevent or reduce the threat or the  
11                  consequences of a harmful intentional act, in-  
12                  cluding hazards to human health and the envi-  
13                  ronment (as described in section 112(r)(7)(B)  
14                  of the Clean Air Act (42 U.S.C.  
15                  7412(r)(7)(B));

16                  “(C) the cost and technical feasibility of  
17                  the alternative approach; and

18                  “(D) the effect of the alternative approach  
19                  on employee safety.

20                  “(3) EMERGENCY RESPONSE PLAN.—The term  
21                  ‘emergency response plan’ means a plan developed  
22                  by a treatment works that describes the procedures  
23                  to be followed by the treatment works in the event  
24                  of a harmful intentional act, including a description  
25                  of, at a minimum, particular equipment, plans, and

1 procedures that could be implemented or used by or  
2 at the treatment works in the event of a harmful in-  
3 tentional act.

4 “(4) HARMFUL INTENTIONAL ACT.—The term  
5 ‘harmful intentional act’ means a terrorist attack or  
6 other intentional act carried out upon a treatment  
7 works that is intended—

8 “(A) to substantially disrupt the ability of  
9 the treatment works to provide safe and reli-  
10 able—

11 “(i) conveyance and treatment of  
12 wastewater;

13 “(ii) disposal of effluent; or

14 “(iii) storage of a potentially haz-  
15 ardous chemical used to treat wastewater;

16 “(B) to damage critical infrastructure;

17 “(C) to have an adverse effect on the envi-  
18 ronment; or

19 “(D) to otherwise pose a significant threat  
20 to public health or safety.

21 “(5) OWNER OR OPERATOR.—The term ‘owner  
22 or operator’ means any individual or entity that  
23 owns, leases, operates, controls, or supervises a  
24 treatment works.

1           “(6) SITE SECURITY PLAN.—The term ‘site se-  
2           curity plan’ means a plan to ensure or enhance, to  
3           the maximum extent practicable, the security of a  
4           treatment works that includes—

5                   “(A) security enhancements to significantly  
6                   reduce the vulnerability of the treatment works  
7                   covered by the plan to a harmful intentional  
8                   act;

9                   “(B) consideration of alternative ap-  
10                  proaches and, where practicable in the judg-  
11                  ment of the owner or operator of the treatment  
12                  works, implementation of options to reduce the  
13                  threat or consequences of a harmful intentional  
14                  act through the use of alternative approaches;

15                  “(C) a certification by the owner or oper-  
16                  ator of the treatment works that alternative ap-  
17                  proaches were considered;

18                  “(D) a description of the alternative ap-  
19                  proaches selected, if any; and

20                  “(E) an explanation of the reasons why  
21                  particular alternative approaches were not se-  
22                  lected.

23           “(7) SUBSTANCE OF CONCERN.—The term  
24           ‘substance of concern’ means—

1 “(A) any regulated substance (as defined  
 2 in section 112(r) of the Clean Air Act (42  
 3 U.S.C. 7412(r)); and

4 “(B) any substance designated by the Ad-  
 5 ministrator under subsection (j).

6 “(8) VULNERABILITY ASSESSMENT.—

7 “(A) IN GENERAL.—The term ‘vulner-  
 8 ability assessment’ means an assessment of the  
 9 vulnerability of a treatment works to a harmful  
 10 intentional act.

11 “(B) INCLUSIONS.—The term ‘vulner-  
 12 ability assessment’ includes—

13 “(i) a review of the vulnerabilities of  
 14 the treatment works that identifies, with  
 15 respect to the treatment works—

16 “(I) facilities, systems, and de-  
 17 vices used in the storage, treatment,  
 18 recycling, or reclamation of municipal  
 19 sewage or industrial waste;

20 “(II) intercepting sewers, outfall  
 21 sewers, sewage collection systems, and  
 22 other constructed conveyances;

23 “(III) electronic, computer, and  
 24 other automated systems;

1 “(IV) pumping, power, and other  
2 equipment;

3 “(V) use, storage, and handling  
4 of various chemicals; and

5 “(VI) operation and maintenance  
6 procedures; and

7 “(ii) the identification of procedures,  
8 countermeasures, and equipment that a  
9 treatment works may implement or use to  
10 reduce the vulnerabilities of the treatment  
11 works identified in a review described in  
12 clause (i).

13 “(b) GRANTS FOR VULNERABILITY ASSESSMENTS,  
14 SITE SECURITY PLANS, EMERGENCY RESPONSE PLANS,  
15 SECURITY ENHANCEMENTS, ALTERNATIVE APPROACHES,  
16 AND TECHNICAL ASSISTANCE.—

17 “(1) IN GENERAL.—The Administrator may  
18 provide grants to a treatment works, State, munici-  
19 pality, or intermunicipal or interstate agency—

20 “(A) to conduct a vulnerability assessment  
21 of a treatment works;

22 “(B) to prepare and implement a site secu-  
23 rity plan;

24 “(C) to prepare an emergency response  
25 plan;

1 “(D) to implement security enhancements  
2 described in subsection (c) and other security  
3 enhancements to reduce vulnerabilities identi-  
4 fied in a vulnerability assessment for treatment  
5 works that have—

6 “(i) completed a vulnerability assess-  
7 ment;

8 “(ii) complied with subsection (e); and

9 “(iii) received a certificate of approval  
10 from the Administrator under subsection  
11 (e)(2)(B);

12 “(E) to implement security enhancements  
13 described in subsection (c) and other security  
14 enhancements to reduce vulnerabilities identi-  
15 fied in a vulnerability assessment for treatment  
16 works that do not meet the criteria described in  
17 subparagraph (D);

18 “(F) to implement alternative approaches  
19 at a treatment works, such as the use of an al-  
20 ternative treatment chemical, that would reduce  
21 the threat or consequences of a harmful inten-  
22 tional act; and

23 “(G) to obtain technical assistance in car-  
24 rying out any of subparagraphs (A) through  
25 (F).

1 “(2) GRANT AMOUNTS.—

2 “(A) FEDERAL SHARE.—The Federal  
3 share of the cost of an activity funded by a  
4 grant under paragraph (1) shall not exceed 55  
5 percent, as determined by the Administrator.

6 “(B) MAXIMUM AMOUNT.—The total  
7 amount of grants made under subparagraphs  
8 (A), (B), (C), (E), (F), and (G) of paragraph  
9 (1) for any treatment works shall not exceed  
10 \$150,000, as determined by the Administrator,  
11 except in a case in which the Administrator de-  
12 termines that additional funds are appropriate,  
13 given the threat level and potential impact on  
14 human health, welfare, environment, critical in-  
15 frastructure, and national security.

16 “(3) PRIORITY.—The Administrator shall  
17 give—

18 “(A) priority for the provision of grants  
19 under this subsection to treatment works de-  
20 scribed in paragraph (1) that apply for grants  
21 under subsection (c); and

22 “(B) first priority for grants under sub-  
23 section (c) to treatment works that have com-  
24 pleted vulnerability assessments.

25 “(c) GRANTS FOR SECURITY ENHANCEMENTS.—

1           “(1) SECURITY ENHANCEMENTS.—The Admin-  
2           istrator may provide grants to the applicant under  
3           subparagraphs (D) and (E) of subsection (b)(1) for  
4           1 or more of the uses described in paragraph (2).

5           “(2) USES OF GRANT FUNDS.—The uses re-  
6           ferred to in paragraph (1) are—

7                   “(A) the purchase and installation of  
8                   equipment for materials and activities relating  
9                   to access control, intrusion prevention and  
10                  delay, and detection of intruders and hazardous  
11                  or dangerous substances, including—

12                           “(i) barriers, fencing, and gates;

13                           “(ii) security lighting and cameras;

14                           “(iii) metal grates, wire mesh, and  
15                   outfall entry barriers;

16                           “(iv) securing of manhole covers and  
17                   fill and vent pipes;

18                           “(v) installation and rekeying of doors  
19                   and locks; and

20                           “(vi) smoke, chemical, and explosive  
21                   mixture detection systems;

22                   “(B) the conduct of activities to improve  
23                   the security of electronic, computer, or other  
24                   automated systems and remote security sys-  
25                   tems, including—

1 “(i) controlling access to those sys-  
2 tems;

3 “(ii) intrusion detection and preven-  
4 tion; and

5 “(iii) system backup; and

6 “(C) participation in training programs,  
7 and the purchase of training manuals and guid-  
8 ance material, relating to security.

9 “(3) ADDITIONAL SECURITY ENHANCE-  
10 MENTS.—

11 “(A) GRANTS.—The Administrator may  
12 provide a grant under subsection (b) to an ap-  
13 plicant for additional security enhancements not  
14 specified in paragraph (2).

15 “(B) ELIGIBILITY.—To be eligible for a  
16 grant under this subsection, an applicant  
17 shall—

18 “(i) submit to the Administrator an  
19 application containing a description of the  
20 security enhancement;

21 “(ii) as appropriate, submit the cer-  
22 tificate of approval of the Administrator  
23 for the appropriate treatment works under  
24 subsection (e)(2)(B); and

1 “(iii) obtain approval of the applica-  
 2 tion by the Administrator.

3 “(4) LIMITATIONS.—A grant provided under  
 4 subsection (b) shall not be used for—

5 “(A) payment of personnel costs; or

6 “(B) operation or maintenance of facilities,  
 7 equipment, or systems.

8 “(5) AUTHORIZATION OF APPROPRIATIONS.—

9 “(A) IN GENERAL.—There are authorized  
 10 to be appropriated to provide grants under sub-  
 11 section (b) \$225,000,000, of which—

12 “(i) \$25,000,000 shall be used for  
 13 grants under subparagraphs (A), (B), and  
 14 (C) of subsection (b)(1);

15 “(ii) \$150,000,000 shall be used for  
 16 grants under subparagraphs (D) and (F)  
 17 of subsection (b)(1);

18 “(iii) \$25,000,000 shall be used for  
 19 grants under subsection (b)(1)(E); and

20 “(iv) \$25,000,000 shall be used for  
 21 grants under subsection (b)(1)(G).

22 “(B) AVAILABILITY.—Amounts made  
 23 available under this paragraph shall remain  
 24 available until expended.

25 “(d) REQUIREMENT.—

1           “(1) IN GENERAL.—Not later than 1 year after  
2           the date of enactment of this section, the Adminis-  
3           trator shall promulgate regulations that require the  
4           owner or operator of each treatment works—

5                   “(A) to conduct a vulnerability assessment  
6                   for the treatment works;

7                   “(B) to prepare and implement a site secu-  
8                   rity plan for the treatment works that address-  
9                   es the results of the vulnerability assessment;

10                  “(C) to prepare an emergency response  
11                  plan for the treatment works that addresses the  
12                  results of the vulnerability assessment; and

13                  “(D) to review and update the vulnerability  
14                  assessment, site security plan, and emergency  
15                  response plan.

16           “(2) REGULATIONS.—Not later than 1 year  
17           after the date of enactment of this section, the Ad-  
18           ministrators shall promulgate regulations establishing  
19           procedures, protocols, and standards for vulner-  
20           ability assessments, site security plans, and emer-  
21           gency response plans.

22           “(3) GUIDANCE TO SMALL ENTITIES.—Not  
23           later than 1 year after the date of enactment of this  
24           section, the Administrator shall issue guidance to as-

1        sist small entities in complying with paragraph (1)  
 2        and regulations promulgated under that paragraph.

3            “(4) THREAT INFORMATION.—To the maximum  
 4        extent practicable under applicable authority and in  
 5        the interests of national security, the Administrator  
 6        shall provide to each owner or operator of a treat-  
 7        ment works required to prepare a vulnerability as-  
 8        sessment, site security plan, and emergency response  
 9        plan threat information that is relevant to the treat-  
 10      ment works, including notification of any elevated  
 11      threat with respect to the treatment works.

12           “(5) COORDINATED ASSESSMENTS AND  
 13      PLANS.—The regulations promulgated under para-  
 14      graph (1) shall permit the development and imple-  
 15      mentation of coordinated vulnerability assessments,  
 16      site security plans, and emergency response plans in  
 17      any case in which more than 1 treatment works is  
 18      operating at a single location or at contiguous loca-  
 19      tions, including a case in which—

20                    “(A) a treatment works is under the con-  
 21                    trol of more than 1 owner or operator; or

22                    “(B) a treatment works is operating with  
 23                    a community water system covered by sections  
 24                    1433 through 1435 of the Safe Drinking Water  
 25                    Act (42 U.S.C. 300iq–2 through 300i–4), at a

1 single location or at contiguous locations, in-  
2 cluding a case in which a treatment works is  
3 under the control of more than 1 owner or op-  
4 erator.

5 “(e) CERTIFICATION AND SUBMISSION.—

6 “(1) IN GENERAL.—Each owner or operator of  
7 a treatment works shall certify in writing to the Ad-  
8 ministrator that the owner or operator has, in ac-  
9 cordance with this section (including regulations pro-  
10 mulgated under this section)—

11 “(A) completed a vulnerability assessment;

12 “(B) prepared and implemented or is im-  
13 plementing a site security plan; and

14 “(C) prepared and implemented an emer-  
15 gency response plan.

16 “(2) SUBMISSION.—

17 “(A) IN GENERAL.—Not later than 18  
18 months after the date of promulgation of regu-  
19 lations under subsection (d)(1), an owner or op-  
20 erator of a treatment works shall provide to the  
21 Administrator for review copies of the vulner-  
22 ability assessment, site security plan, and emer-  
23 gency response plan of the treatment works.

24 “(B) PUBLIC CERTIFICATE OF AP-  
25 PROVAL.—

1           “(i) IN GENERAL.—Not later than 2  
2           years after the date on which the Adminis-  
3           trator receives the vulnerability assess-  
4           ment, site security plan, and emergency re-  
5           sponse plan of a treatment works under  
6           subparagraph (A), the Administrator shall  
7           determine whether the treatment works is  
8           in compliance with the requirements of this  
9           section (including paragraph (1) and regu-  
10          lations promulgated under this section).

11          “(ii) CERTIFICATE.—If the Adminis-  
12          trator determines that the treatment works  
13          is in compliance with the requirements of  
14          this section (including paragraph (1) and  
15          regulations promulgated under this sec-  
16          tion), the Administrator shall provide to  
17          the treatment works and make available  
18          for public inspection a certificate of ap-  
19          proval that contains the following state-  
20          ment (in which statement the first brack-  
21          eted space shall include the name of the  
22          treatment works and the second bracketed  
23          space shall include the Public Law number  
24          assigned to this Act):

1           ‘[\_\_\_\_\_]’ is in compliance with  
2           Public Law [\_\_\_\_\_]’.

3                   “(iii) DETERMINATION OF NON-  
4                   COMPLIANCE.—If the Administrator deter-  
5                   mines under clause (i) that a treatment  
6                   works is not in compliance with the re-  
7                   quirements of this section (including para-  
8                   graph (1) and regulations promulgated  
9                   under this section), the Administrator may  
10                  issue an order requiring the certification  
11                  and submission of a vulnerability assess-  
12                  ment, site security plan, or emergency re-  
13                  sponse plan in accordance with this sec-  
14                  tion.

15                  “(iv) ENFORCEMENT.—If the Admin-  
16                  istrator determines under clause (i) that,  
17                  after receiving an order from the Adminis-  
18                  trator requiring the certification and sub-  
19                  mission of a vulnerability assessment, site  
20                  security plan, or emergency response plan  
21                  in accordance with this section, a treat-  
22                  ment works is not in compliance with the  
23                  requirements of this section (including  
24                  paragraph (1) and the regulations promul-  
25                  gated under this section), the Adminis-

1                   trator may issue an order or file a civil ac-  
2                   tion requiring the treatment works to com-  
3                   ply with those requirements.

4                   “(3) OVERSIGHT.—The Administrator shall, at  
5                   such times and places as the Administrator deter-  
6                   mines to be appropriate, conduct or require the con-  
7                   duct or submission of vulnerability assessments, site  
8                   security plans, emergency response plans, and other  
9                   activities (including third-party audits) to ensure, to  
10                  the maximum extent practicable, and evaluate com-  
11                  pliance with this section (including paragraph (1)  
12                  and regulations promulgated under this section).

13                  “(f) PROTECTION OF INFORMATION.—

14                  “(1) DISCLOSURE EXEMPTION.—Except with  
15                  respect to any certification, description, or expla-  
16                  nation referred to in subparagraph (C), (D), or (E),  
17                  respectively, of subsection (a)(6) and certifications  
18                  specified in subsection (e)(2)(B)(ii), all vulnerability  
19                  assessments, site security plans, and emergency re-  
20                  sponse plans obtained in accordance with this sub-  
21                  title, all grant applications relating to vulnerability  
22                  assessments and security enhancements (including  
23                  grant applications submitted in accordance with reg-  
24                  ulations promulgated to carry out this section), and  
25                  all information derived from those vulnerability as-

1        sessments, site security plans, emergency response  
 2        plans, and applications (including information  
 3        shared with Federal, State, and local government  
 4        entities), shall be exempt from disclosure under—

5                “(A) section 552 of title 5, United States  
 6                Code; and

7                “(B) any State or local law providing for  
 8                public access to information.

9                “(2) DEVELOPMENT OF PROTOCOLS.—

10               “(A) IN GENERAL.—The Administrator, in  
 11               consultation with the Director of the Office of  
 12               Management and Budget and appropriate Fed-  
 13               eral law enforcement and intelligence officials,  
 14               and in a manner consistent with existing pro-  
 15               tections for sensitive or classified information,  
 16               shall by regulation establish confidentiality pro-  
 17               tocols for maintenance and use of information  
 18               that is obtained from owners or operators of  
 19               treatment works and provided to the Adminis-  
 20               trator under this title.

21               “(B) REQUIREMENTS FOR PROTOCOLS.—A  
 22               protocol established under subparagraph (A)  
 23               shall ensure, to the maximum extent prac-  
 24               ticable, that—

1 “(i) each copy of a vulnerability as-  
2 sessment, site security plan, or emergency  
3 response plan submitted to the Adminis-  
4 trator, all information contained in or de-  
5 rived from that assessment or plan, and  
6 other related information is maintained in  
7 a secure location; and

8 “(ii) except as provided in paragraph  
9 (1)(B), or as necessary for judicial enforce-  
10 ment, access to the copies of the vulner-  
11 ability assessments, site security plans, and  
12 emergency response plans submitted to the  
13 Administrator, and other related informa-  
14 tion shall be limited to persons designated  
15 by the Administrator.

16 “(3) DISCLOSURE IN CIVIL PROCEEDINGS.—In  
17 any Federal or State civil or administrative pro-  
18 ceeding in which a person seeks to compel the disclo-  
19 sure or the submission as evidence of sensitive infor-  
20 mation contained in the vulnerability assessments,  
21 site security plans, or emergency response plans re-  
22 quired by subsection (a) or (b) and is not otherwise  
23 subject to disclosure under other provisions or law—

24 “(A) the information sought may be sub-  
25 mitted to the court under seal; and

1           “(B) the court, or any other person, shall  
 2           not disclose the information to any person until  
 3           the court, in consultation with the Adminis-  
 4           trator, determines that the disclosure of the in-  
 5           formation does not pose a threat to public secu-  
 6           rity or endanger the life or safety of any per-  
 7           son.

8           “(4) PENALTIES FOR UNAUTHORIZED DISCLO-  
 9           SURE.—

10           “(A) IN GENERAL.—Except as provided in  
 11           subparagraph (B), any person that is in posses-  
 12           sion of or acquires any information described in  
 13           paragraph (2)(A) (including any reproduction  
 14           of that information or any information derived  
 15           from that information), and that knowingly or  
 16           recklessly discloses the information—

17           “(i) shall be fined under chapter 227  
 18           of title 18, United States Code (applicable  
 19           to class A misdemeanors);

20           “(ii) if the person is a Federal em-  
 21           ployee, shall be removed from Federal of-  
 22           fice or employment; and

23           “(iii) if the person is an organization  
 24           (as defined in section 113(c)(5)(E) of the

Clean Air Act (42 U.S.C. 7413(c)(5)(E)),  
shall be fined not more than \$1,000,000.

“(B) EXCEPTIONS.—

“(i) IN GENERAL.—Subparagraph (A)  
shall not apply to a person described in  
that subparagraph that discloses informa-  
tion described in paragraph (2)(A)—

“(I) to an individual designated  
by the Administrator under paragraph  
(2)(B)(ii); or

“(II) for use in any administra-  
tive or judicial proceeding to impose a  
penalty for failure to comply with re-  
quirements of this subtitle.

“(ii) LAW ENFORCEMENT OFFICIALS  
AND FIRST RESPONDERS.—Notwith-  
standing subparagraph (A), an individual  
referred to in paragraph (2)(B)(ii) who is  
an officer or employee of the United States  
may share with a State or local law en-  
forcement or other official (including a  
first responder) the contents of a vulner-  
ability assessment, emergency response  
plan, or site security plan, or other infor-  
mation described in that paragraph, to the

1 extent disclosure is necessary to carry out  
 2 this subtitle.

3 “(5) NO EFFECT ON OTHER DISCLOSURE.—  
 4 Nothing in this subtitle affects the handling, treat-  
 5 ment, or disclosure of information obtained from  
 6 treatment works under any other law.

7 “(g) EMERGENCY POWERS.—

8 “(1) DEFINITION OF EMERGENCY THREAT.—In  
 9 this subsection, the term ‘emergency threat’ means  
 10 a threat of a harmful intentional act that could af-  
 11 fect a treatment works—

12 “(A) that is beyond the scope of the site  
 13 security plan as implemented at the treatment  
 14 works;

15 “(B) the likelihood of the immediate occur-  
 16 rence of which is high;

17 “(C) the consequences of which would be  
 18 severe; and

19 “(D) based on the factors described in sub-  
 20 paragraphs (A) through (C), would not be ap-  
 21 propriately and reasonably addressed, or ad-  
 22 dressed in a timely manner, by the Adminis-  
 23 trator under subsections (d) and (e).

24 “(2) INITIATION OF ACTION.—

1           “(A) IN GENERAL.—If the Administrator  
 2           (in consultation with State and local law en-  
 3           forcement officials) determines that an emer-  
 4           gency threat exists, the Administrator may  
 5           bring a civil action in United States district  
 6           court to immediately require each treatment  
 7           works potentially affected by the new emer-  
 8           gency threat to take such actions as are nec-  
 9           essary to respond to the new emergency threat.

10           “(B) NOTICE AND PARTICIPATION.—The  
 11           Administrator shall provide to each treatment  
 12           works that is the subject of a civil action under  
 13           subparagraph (A)—

14                   “(i) notice of any injunctive relief to  
 15                   compel compliance with this subsection  
 16                   that is being sought; and

17                   “(ii) an opportunity to participate in  
 18                   any proceedings relating to the civil action.

19           “(3) EMERGENCY ORDERS.—

20           “(A) IN GENERAL.—If the Administrator  
 21           determines that it is not practicable to ensure  
 22           prompt action to protect public safety from a  
 23           new emergency threat by commencing a civil ac-  
 24           tion under paragraph (2), the Administrator

1           may issue such orders as are necessary to en-  
2           sure public safety.

3           “(B) CONSULTATION.—Before issuing an  
4           order under subparagraph (A), the Adminis-  
5           trator shall—

6                   “(i) attempt to confirm the accuracy  
7                   of the information on which the action pro-  
8                   posed to be taken is based; and

9                   “(ii) consult with State and local law  
10                  enforcement officials.

11           “(4) AUTHORIZATION OF APPROPRIATIONS.—  
12           There is authorized to be appropriated to carry out  
13           this subsection, \$15,000,000, to remain available  
14           until expended.

15           “(h) TECHNICAL ASSISTANCE FOR SMALL TREAT-  
16           MENT WORKS.—

17                   “(1) DEFINITION OF SMALL TREATMENT  
18                   WORKS.—In this subsection, the term ‘small treat-  
19                   ment works’ means a treatment works that serves a  
20                   population of fewer than 10,000 individuals.

21                   “(2) SECURITY ASSESSMENT AND PLANNING  
22                   ASSISTANCE.—

23                   “(A) IN GENERAL.—The Administrator, in  
24                   coordination with the States, may provide tech-

1            nical guidance and assistance to small treat-  
 2            ment works for—

3                    “(i) the conduct of a vulnerability as-  
 4                    sessment;

5                    “(ii) the preparation of an emergency  
 6                    response plan;

7                    “(iii) the preparation and implementa-  
 8                    tion of a site security plan; and

9                    “(iv) the implementation of security  
 10                    enhancements to reduce vulnerabilities  
 11                    identified in a vulnerability assessment.

12            “(B) INCLUSIONS.—Technical guidance  
 13            and assistance provided under subparagraph  
 14            (A) may include technical assistance programs,  
 15            training, and preliminary engineering evalua-  
 16            tions.

17            “(3) PARTICIPATION BY NONPROFIT ORGANIZA-  
 18            TIONS.—The Administrator may provide grants to  
 19            nonprofit organizations to assist in accomplishing  
 20            the purposes of this subsection.

21            “(4) AUTHORIZATION OF APPROPRIATIONS.—  
 22            There is authorized to be appropriated to carry out  
 23            this subsection, \$1,000,000 for each of fiscal years  
 24            2006 through 2010, to remain available until ex-  
 25            pended.

1       “(i) REFINEMENT OF VULNERABILITY ASSESSMENT  
 2       METHODOLOGY FOR PUBLICLY OWNED TREATMENT  
 3       WORKS.—

4               “(1) GRANTS.—The Administrator may provide  
 5       to nonprofit organizations 1 or more grants to be  
 6       used in improving vulnerability assessment meth-  
 7       odologies and tools for publicly owned treatment  
 8       works, including publicly owned treatment works  
 9       that are part of a combined public wastewater treat-  
 10      ment and water supply system.

11              “(2) ELIGIBLE ACTIVITIES.—A grant provided  
 12      under this subsection may be used—

13                      “(A) to develop and distribute vulnerability  
 14                      self-assessment methodology software upgrades;

15                      “(B) to improve and enhance critical tech-  
 16                      nical and user support functions;

17                      “(C) to expand libraries of information ad-  
 18                      dressing threats and countermeasures; and

19                      “(D) to implement user training initiatives.

20              “(3) COST.—A service described in paragraph  
 21      (2) that is funded by a grant under this subsection  
 22      shall be provided at no cost to the recipients of the  
 23      service.

24              “(4) AUTHORIZATION OF APPROPRIATIONS.—

25      There is authorized to be appropriated to carry out

1       this subsection, \$1,000,000 for each of fiscal years  
 2       2006 through 2010, to remain available until ex-  
 3       pended.

4       “(j) DESIGNATION AND REGULATION OF ADDI-  
 5       TIONAL SUBSTANCES OF CONCERN BY THE ADMINIS-  
 6       TRATOR RELATING TO WASTEWATER TREATMENT  
 7       WORKS.—

8               “(1) IN GENERAL.—Not later than 1 year after  
 9       the date of enactment of this section, the Adminis-  
 10      trator, in consultation with Federal, State, and local  
 11      agencies responsible for planning for and responding  
 12      to unauthorized releases and providing emergency  
 13      health care, may promulgate regulations to designate  
 14      certain additional substances of concern based on  
 15      the severity of the threat posed by an unauthorized  
 16      release from the treatment works.

17              “(2) FACTORS TO BE CONSIDERED.—In desig-  
 18      nating additional substances of concern under para-  
 19      graph (1), the Administrator shall consider, with re-  
 20      spect to the substance under consideration—

21                      “(A) the severity of the harm that could be  
 22                      caused by an unauthorized release;

23                      “(B) proximity to population centers;

24                      “(C) threats to national security;

25                      “(D) threats to critical infrastructure;

1                   “(E) threshold quantities that pose a seri-  
2                   ous threat; and

3                   “(F) such other safety or security factors  
4                   as the Administrator determines to be appro-  
5                   priate.

6                   “(3) REVIEW AND REVISIONS.—Not later than  
7                   5 years after the date of promulgation of regulations  
8                   under paragraph (1), the Administrator shall review  
9                   the regulations and make any necessary revisions.”.

10 **SEC. 3. RESEARCH AND REVIEW.**

11           Title II of the Federal Water Pollution Control Act  
12 (33 U.S.C. 1281 et seq.) (as amended by section 2) is  
13 amended by adding at the end the following:

14 **“SEC. 223. RESEARCH AND REVIEW.**

15           “(a) DEFINITION OF HARMFUL INTENTIONAL  
16 ACT.—In this section, the term ‘harmful intentional act’  
17 has the meaning given the term in section 222.

18           “(b) REVIEW BY ADMINISTRATOR.—Not later than  
19 2 years after the date of enactment of this section, the  
20 Administrator, in coordination with appropriate Federal  
21 agencies, shall research and review (or enter into a con-  
22 tract or cooperative agreement to provide for research and  
23 review of)—

1           “(1) means by which terrorists or other individ-  
2           uals or groups could carry out harmful intentional  
3           acts; and

4           “(2) means by which alternative processes of  
5           conveying, treating, and disposing of wastewater  
6           could be provided in the event of the destruction, im-  
7           pairment, or disruption of treatment works as the  
8           result of harmful intentional acts.

9           “(c) MEANS OF CARRYING OUT HARMFUL INTEN-  
10          TIONAL ACTS.—Means referred to in subsection (b)(1) in-  
11          clude—

12           “(1) means by which pipes and other con-  
13           structed conveyances used in treatment works could  
14           be destroyed or otherwise prevented from providing  
15           adequate conveyance, pretreatment, treatment, and  
16           disposal of wastewater meeting applicable public  
17           health standards;

18           “(2) means by which conveyance, pretreatment,  
19           treatment, storage, and disposal facilities used by, or  
20           in connection with, treatment works could be de-  
21           stroyed or otherwise prevented from providing ade-  
22           quate treatment of wastewater meeting applicable  
23           public health standards;

24           “(3) means by which pipes, constructed convey-  
25           ances, pretreatment, treatment, storage, and dis-

1       posol systems that are used in connection with treat-  
2       ment works could be altered or affected so as to  
3       pose a threat to public health, public safety, or the  
4       environment;

5           “(4) means by which pipes, constructed convey-  
6       ances, pretreatment, treatment, storage, and dis-  
7       posal systems that are used in connection with treat-  
8       ment works could be reasonably protected from  
9       harmful intentional acts;

10          “(5) means by which pipes, constructed convey-  
11       ances, pretreatment, treatment, storage, and dis-  
12       posal systems could be reasonably secured from use  
13       as a means of transportation by terrorists or other  
14       individuals or groups who intend to threaten public  
15       health or safety; and

16          “(6) means by which information systems, in-  
17       cluding process controls and supervisory control,  
18       data acquisition, and cyber systems, at treatment  
19       works could be disrupted by terrorists or other indi-  
20       viduals or groups.

21          “(d) CONSIDERATIONS.—In carrying out the review  
22       under this section, the Administrator—

23           “(1) shall ensure, to the maximum extent prac-  
24       ticable, that the review reflects the needs of treat-

1       ment works of various sizes and various geographic  
2       areas of the United States; and

3               “(2) may consider the vulnerability of, or poten-  
4       tial for forced interruption of service for, a region or  
5       service area, including the National Capital Area.

6       “(e) INFORMATION SHARING.—As soon as prac-  
7       ticable after the review carried out under this section has  
8       been evaluated by the Administrator, the Administrator  
9       shall disseminate to treatment works information on the  
10      results of the review through the Information Sharing and  
11      Analysis Center or other appropriate means.

12      “(f) FUNDING.—There is authorized to be appro-  
13      priated to carry out this section \$15,000,000 for the pe-  
14      riod of fiscal years 2006 through 2010.”.

15   **SEC. 4. CONFORMING AMENDMENT.**

16      Section 309(a)(1) of the Federal Water Pollution  
17      Control Act is amended in the first sentence by striking  
18      “section 402 or 404” and inserting the following: “section  
19      222, 402, or 404”.

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